

ESTTA Tracking number: **ESTTA379708**

Filing date: **11/22/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	FARONICS CORPORATION
Granted to Date of previous extension	11/24/2010
Address	P.O. BOX 10362, PACIFIC CENTRE, SUITE 620 - 609 GRANVILLE STREET VANCOUVER, BC V7Y 1G5 CANADA
Attorney information	JAMES E. SHLESINGER SHLESINGER, ARKWRIGHT & GARVEY LLP 5845 RICHMOND HIGHWAY, SUITE 415 ALEXANDRIA, VA 22303 UNITED STATES jim@sagllp.com, nitasantiago@sagllp.com Phone:703-684-5600

Applicant Information

Application No	77785826	Publication date	07/27/2010
Opposition Filing Date	11/22/2010	Opposition Period Ends	11/24/2010
International Registration No.	NONE	International Registration Date	NONE
Applicant	Aristocrat Technologies Australia Pty Ltd 85 Epping Road Building A, Pinnacle Office Park North Ryde NSW, 2113 AUSTRALIA		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Gaming machines, namely, devices which accept a wager
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2383295	Application Date	10/22/1999
Registration Date	09/05/2000	Foreign Priority Date	NONE
Word Mark	DEEP FREEZE		

Design Mark	DEEP FREEZE
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1999/09/02 First Use In Commerce: 1999/09/02 software, namely, computer programs for controlling, restricting access, and organizing other software applications

Attachments	75829723#TMSN.gif (1 page)(bytes) Notice of Opposition 77785826.pdf (5 pages)(161470 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/jes/
Name	JAMES E. SHLESINGER
Date	11/22/2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No. 77/785,826
published in the Official Gazette of July 27, 2010.

FARONICS CORPORATION,	:	
	:	
Opposer,	:	
	:	
v.	:	Opposition No.
	:	
ARISTOCRAT TECHNOLOGIES	:	
AUSTRALIA PTY LTD,	:	
	:	
Applicant.		

NOTICE OF OPPOSITION

Opposer, FARONICS CORPORATION, (hereinafter
"Opposer"), a corporation organized under the laws of Canada,
located and doing business at P.O. Box 10362, Pacific Centre,
Suite 620 - 609 Granville Street, Vancouver, British Columbia,
Canada V7Y 1G5, believes that it will be damaged by the
registration of the mark shown in application Serial No.
77/785,826, and hereby opposes the same.

The grounds for the opposition are as follows:

1. Since long prior to the filing date of the
application for registration, and any use date claimed therein,

Serial No. 77/785,826

Opposer, its predecessors-in-interest, and its related companies or licensees, have marketed and sold software, namely, computer programs for controlling, restricting access, and organizing other software applications in the United States and elsewhere. Opposer's software items include computer programs for controlling, restricting access, and organizing other software applications including operating systems by identifying, tracking and returning computer system configurations to a predetermined configuration and by providing computer system administrators with the ability to schedule updates, maintenance and computer shutdown. Opposer, through its predecessors-in-interest, related companies and/or licensees, has produced, marketed, and distributed said software in the United States and elsewhere. Opposer has marketed said products under the mark, DEEP FREEZE.

2. Opposer is the owner of the following U.S. trademark.

<u>Reg. No.</u>	<u>Mark</u>	<u>Goods</u>
2,383,295	DEEP FREEZE	software, namely, computer programs for controlling, restricting access, and organizing other software applications

The above-registration is in full force and effect on the Principal Register at the United States Patent and Trademark

Office, and operates as prima facie evidence of Opposer's ownership of said mark and its exclusive right to use the same in commerce throughout the United States. Registration No. 2,383,295 is incontestable, and thereby acts as conclusive evidence of Opposer's ownership in its mark, and its exclusive right to use its mark in commerce throughout the United States.

3. By virtue of extensive sales in commerce under Opposer's mark in the United States, the relevant trade and public has come to associate goods provided under the mark, DEEP FREEZE, with Opposer, thereby creating a valuable reputation for such goods.

4. Opposer continues to expand its product line and the application of its existing product line under the DEEP FREEZE mark.

5. Applicant filed on July 21, 2009, an application for an identical mark to Opposer, DEEP FREEZE, for gaming machines, namely, devices which accept a wager. Upon information and belief, Applicant has not used its mark prior to the filing date for its application.

6. In view of the similarity between the respective marks and uses, and the related nature of the goods and/or services of the respective parties, Applicant's mark so resembles Opposer's trademark, previously used in the United States and not abandoned, as to be likely to cause confusion, or

Serial No. 77/785,826

to cause mistake, or to deceive, to the irreparable damage of Opposer.

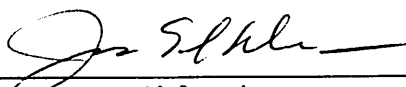
7. If Applicant is granted a registration for the mark herein opposed, it would obtain thereby at least a prima facie exclusive right to use the mark. Such registration would be a source of damage and injury to Opposer and Opposer's business.

WHEREFORE, Opposer prays that Application Serial No. 77/785,826 be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Opposer.

Respectfully submitted,

FARONICS CORPORATION

Date: Nov 22, 2010

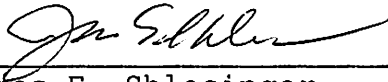
By: 
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Daniel T. Earle
Attorneys for Opposer

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nsm

CERTIFICATE OF SERVICE

It is hereby certified that this Notice of Opposition has been served upon by prepaid first class mail to Applicant, Aristocrat Technologies Australia Pty Ltd, 85 Epping Road Building A, Pinnacle Office Park, North Ryde NSW 2113 Australia, and to Applicant's Counsel, Lauren Krupka, Aristocrat Technologies, Inc., 7230 Amigo Street, Las Vegas, Nevada 89119-4306, this 22th day of November, 2010.

By: 
James E. Shlesinger

nsm